

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

RICHARD ARKOW and
PATRICIA ARKOW,

Debtors.

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Return Date: November 30, 2009

Time: 9:30 a.m.

Chapter 7

Case No. 04-83208-reg

**NOTICE OF MOTION TO
REOPEN BANKRUPTCY AND
AVOID LIENS**

S I R S :

PLEASE TAKE NOTICE, that upon the annexed affirmation of Laura A. Ellis, Esq., of counsel to the Law Offices of Scott R. Schneider, a motion will be made to a term of this Court for an Order reopening the Chapter 7 case and avoiding judgment liens against real property owned by the debtors which impair the homestead exemption, pursuant to Section 350(b) and Section 522(f) of the Bankruptcy Code, together with such other, further and different relief as this Court deems just, proper and equitable.

DATE & TIME: November 30, 2009 at 9:30 a.m.

BANKRUPTCY JUDGE: Hon. Robert E. Grossman

COURTHOUSE: US Bankruptcy Court, Long Island Federal Courthouse,
290 Federal Plaza, Courtroom 860, Central Islip, New York 11722

Dated: Hicksville, New York
October 15, 2009

THE LAW OFFICES OF SCOTT R SCHNEIDER
Attorneys for Debtors
117 Broadway
Hicksville, NY 11801
(516) 433-1555

s/_____
By Laura A. Ellis, Esq.

TO: U.S. Trustee
Neil H. Ackerman, Chapter 7 Trustee
Lienholders

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7

RICHARD ARKOW and
PATRICIA ARKOW,

Case No.04-83208

Debtors.

**AFFIRMATION OF
LAURA A. ELLIS, ESQ.**

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Laura A. Ellis, an attorney duly admitted to practice before this Court affirms under penalty of perjury as follows:

1. I am of counsel to the Law Offices of Scott R. Schneider, the attorneys for Richard Arkow and Patricia Arkow, the debtors herein. I submit this affirmation in support of the debtors' motion for an order reopening the within Chapter 7 case and avoiding judgment liens which impair the debtors' homestead exemption pursuant to Section 350(b) and Section 522(f) of the Bankruptcy Code and directing that the Nassau County Clerk's office remove the judgment liens as liens against the debtors' real property located at 2970 Judith Drive, Merrick, New York 11566.

2. The debtors filed a petition for relief under Chapter 7 of the Bankruptcy Code on May 14, 2004 and received their discharge on February 25, 2005.

3. Included in the debtors' list of creditors are the following holders of judgment liens:

Citibank
C/O Solomon and Solomon
Columbia Circle Box 15019
Albany, NY 12212
judgment entered on January 1, 2002
judgment amount - \$16,005.00

Sterling National Bank
C/O Kaplan and Levenson
630 Third Avenue
New York, NY 10017

judgment entered on March 23, 2004
judgment amount - \$71,541.77

4. Annexed hereto as Exhibit "A" is a copy of Schedule "A" listing the fair market value of the real property at \$527,000 and also attached as Exhibit "A" is an appraisal dated October 7, 2009 for the debtors' real property known as 2970 Judith Drive, Merrick, New York, Section 63, Block 143, Lot 56, (the "Property"), indicating a fair market value of \$535,000.

5. As of the date of filing, the Property is encumbered by a mortgage held by Wells Fargo Home Mortgage in the amount of \$245,000, a non-purchase money security agreement, held by US Small Business Administration, in the amount of \$200,000.00 and a non-purchase money security agreement held by Merrill Lynch Credit Corp. in the amount of \$70,000.00 all of which are disclosed on Schedule "D" of the petition, a copy of which is annexed hereto as Exhibit "B".

6. In addition to the mortgage liens, the property is also encumbered by a non-consensual judicial judgment liens which are listed above.

7 The judgment liens impairs the debtors' homestead exemption of \$20,000.00 and is subject to avoidance pursuant to Section 522(f) of the Bankruptcy Code. A worksheet is attached hereto as Exhibit "C".

WHEREFORE, your affirmant, respectfully requests that pursuant to Sections 350 (b) and 522(f) of the Bankruptcy Code the case be reopened to avoid the judgment liens of Citibank and Sterling National Bank, and that the County Clerk's office be directed to remove the judgment liens as against the debtors' real property located at 2970 Judith Drive, Merrick, New York.

Dated: Hicksville, New York
October 15, 2009

S/_____
Laura A. Ellis

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF NEW YORK

-----X

In re:

Chapter 7

RICHARD ARKOW and

PATRICIA ARKOW,

Case No.04-83208

Debtors.

ORDER DISCHARGING LIENS

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APPLICATION HAVING BEEN MADE to this Court by Richard Arkow and Patricia Arkow, by Laura A. Ellis, Esq., of counsel to the Law Offices of Scott R., by notice of motion dated October 15, 2009, for an Order to reopen pursuant to Section 350(b) and avoid judgment liens against the debtors' real property which impair the homestead exemption, pursuant to Section 522(f) of the Bankruptcy Code and directing that the County Clerk's office be directed to remove the judgment lien against the debtor's real property located at 2970 Judith Drive, Merrick, New York; and due notice of said application having been given to the lien holders and the Chapter 7 Trustee, and the matter having come on to be regularly heard before the Court on November 30, 2009; and Scott R. Schneider, Esq. appearing in support of said motion; and no one appearing in opposition thereto and after due deliberation and for cause; it is

ORDERED that the motion be and hereby is granted, and it is further,

ORDERED that the case is hereby reopened for the limited purposes of allowing this motion to avoid judgment liens, and it is further

ORDERED that the following judgments and judicial liens against the premises 2970 Judith Drive, Merrick, New York, New York, Section 63, Block 143, Lot 56, be and hereby is void and is declared a nullity, and that the County Clerk's office be and hereby is directed to remove the following judgment and judicial lien as against the debtors' real property located at 2970 Judith Drive, Merrick, New York

1. Citibank
C/O Solomon and Solomon
Columbia Circle Box 15019
Albany, NY 12212
judgment entered on January 1, 2002
judgment amount - \$16,005.00
2. Sterling National Bank
C/O Kaplan and Levenson
630 Third Avenue
New York, NY 10017
judgment entered on March 23, 2004
judgment amount - \$71,541.77

Dated: Central Islip, New York
November , 2009

Robert E. Grossman
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7

RICHARD ARKOW and
PATRICIA ARKOW,

Case No.04-83208

AFFIDAVIT OF SERVICE

Debtor.

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STATE OF NEW YORK)
COUNTY OF NASSAU)ss.:

Kevin Haynes, being duly sworn, deposes and says:

1. I am not a party to this action, am over 18 years of age and reside in Nassau County, New York.

2. On October 23, 2009, I served a true copy of the NOTICE OF MOTION, AFFIRMATION with EXHIBITS and PROPOSED ORDER by depositing same in a sealed envelope, with postage prepaid, in an official depository under the exclusive care and custody of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee indicated below:

Neil H. Ackerman, Trustee,c/o Meltzer Lippe & Goldstein, LLP, 190 Willis Avenue, Mineola NY 11501

Citibank, C/O Solomon and Solomon, Columbia Circle Box 15019, Albany, NY 12212

Citibank/CCSI, Bankruptcy Dept., 7930 NW 110th Street, PO Box 20487, Kansas City MO 64195-9904

Sterling National Bank, C/O Kaplan and Levenson, 630 Third Avenue, New York, NY 10017

Sterling National Bank, 500 Seventh Avenue, New York, NY 10018

U.S. Trustee, Long Island Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722

Sworn to before me this
23rd day of October, 2009

s/_____
Notary Public

S/_____
Kevin Haynes